

REMARKS

Claims 1-52 are canceled without prejudice or disclaimer.

Claim 73 is added.

Claim 70 is amended to correct a typographical error.

Claims 53-73 are pending.

The Applicants respectfully assert that the amendments to Claim 70 and incorporated by reference in any claims depending therefrom, are not narrowing amendments made for a reason related to the statutory requirements for a patent that will give rise to prosecution history estoppel. *See Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 122 S. Ct. 1831, 1839-40, 62 U.S.P.Q.2d 1705, 1711-12 (2002); 234 F.3d 555, 566, 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2001).

I. REJECTION UNDER 35 U.S.C. § 102(e)

The Examiner rejected Claims 1-72 under 35 U.S.C. §102(e) as being disclosed by *London* (Popcorn-A Paradigm for Global-Computing; June 1998) (hereafter "*London*"). Claims 1-52 have been canceled without prejudice or disclaimer. Claims 53-72 were added in the last office action. The added 20 claims (53-72) represent 10 method and 10 system claims. The Examiner did not specifically address these claims except to group them with Claims 29-52 and reject them all using the same arguments he used relative to Claims 1-28 by stating "per Claims 29-72, the rejection of claims 1-28 under [sic] 35 U.S.C. §102(b) (paragraphs 2.1-2.3 above) applies fully." The Examiner rejects Claim 1 and 14-28 citing *London*, pages 8-14 with no more specificity. The Examiner rejects Claims 14-28 citing *London*, page 12; "lottery" again with no more specificity. The Applicant would like to remind the Examiner that the M.P.E.P. § 707.07(e) states that "an

omnibus rejection of the claim on the references and for the reasons of record is stereotyped and usually not informative and should therefore be avoided."

Additionally, according to the M.P.E.P. § 2131, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d. 1051, 1053 (Fed. Cir. 1987).

The Applicant would like to remind the Examiner that the M.P.E.P. § 707.07(e) states that "an omnibus rejection of the claim on the references and for the reasons of record is stereotyped and usually not informative and should therefore be avoided." The Applicant asserts that the Examiner has failed to specifically point out where in *London* each and every step of Claim 53 is found. Rather, the Examiner has cited the entirety of *London*, pages 8-14 to reject Claims 1-28 and then has said that Claim 53 is rejected for the same reasons as Claims 1-28.

Claim 53 recites a method of configuring a distributed parallel processing system, comprising 6 steps. The cited reference *London* is a paper describing a Global Computing paradigm wherein a market is created for unused computer time of computers coupled to a network (e.g., the internet). Simply utilizing unused computer time of computers coupled to a network is not the object of the present invention. *London* is describing a method for creating a market for unused computer time wherein an owner of the computer can sell or exchange the time for something of value. *London* does this by creating a market (an address) where a seller of computer time and a potential buyer of computer time can "meet" and complete a transaction based on some exchange protocol (exchange of "popcoin" in the case of *London*). The "market", according to *London*, is a program that matches someone who needs to use computer processing to one or more sellers of computer time. One enters a market by somehow finding the address (e.g., a website) wherein the seller acquires an applet and thus indicates that he is willing to sell computer time. The market program therein acquires a list of willing sellers. When a buyer enters the

market with a workload, the market program parses his workload into sub-workloads and contracts with a seller to process the sub-workload. Somehow the seller returns the result along with a "bill" (how many computer cycles were required to complete sub-workload). Depending on the agreement for compensation, the seller's account is credited and the buyer's is debited according to *London*. Global computing according to *London* is accomplished by providing one or more markets for computer cycles, providing a uniform way of compensating a seller for his computer cycles (popcoin for *London*), and a way for a user to pay for computer cycles used to process his workloads. The present invention recites a specific method of configuring a distributed processing system. While *London* describes a method that enables distributed devices to be compensated for processing workloads, *London* does not teach or suggest the particular invention recited in Claims 53-72. The method of Claim 53 has 6 steps. In step 1, a server system is provided. In step 2, the server system is coupled to a network that is capable of connecting to distributed devices. In step 3, a notice is provided to the distributed devices of the server system's desire to configure the distributed parallel processing system through coupling selected ones of the distributed devices through the network, wherein the selected distributed devices are enabled by the server system to perform workloads for the configured distributed parallel processing system. According to Claim 53, a distributed device that is coupled through the network to form the distributed parallel processing system is the device that performs processing. This is equivalent to *London*'s "seller" of computer time. A seller according to *London* is not provided a notice of a server's desire to form a distributed processing system. A seller according to *London* visits a web page in the market site and loads a seller applet that initiates connection to the market. See *London*, page 11, "The Sellers". *London* does not suggest or teach that the seller receives a notice of a desire to form a distributed processing system as is recited in step 3 of Claim 53 of the present invention.

In step 4 of Claim 53, an incentive is provided to the distributed devices communicating with the server system through the network in response to the notice

to participate in the configured distributed parallel processing system. Distributed devices, that receive a notice of a desire by the server to form a distributed processing system, may or may not respond to this notice. The distributed devices that do respond to the notice are provided an incentive to participate in the configured distributed parallel processing system. The method of *London* does not teach or suggest providing an incentive to join a particular market; rather, *London* teaches incentives as compensation for the computer time a seller expends processing a workload.

In step 5 of Claim 53, a workload capability factor is generated quantifying a workload processing capability for each of the selected distributed devices. The selected distributed devices are those that have accepted the incentive offered to participate in the configured distributed parallel processing system in response to the notice sent by the server. The capability factor quantifies a selected distributed device's value as a member of the configured distributed processing system. Nowhere does *London* quantify a seller's value when the seller enters the market. The seller receives an incentive for his computer time and the incentive is not a function of the seller's capability in processing workloads. Likewise, the invention of Claim 53 only provides an incentive for participating in the distributed processing system and does not discuss incentives for an amount of computer time. This is the primary objective of *London*, providing a market for computer time not configuring a particular distributed processing system.

In step 6 of Claim 53, the selected distributed devices participation in the configured distributed parallel processing system is managed by the server system utilizing the workload capability factor.

The Applicant, respectfully, asserts that while *London* uses some of the same terms of Claim 53, these terms are not applied in the same manner. All of the steps of Claim 53 must be considered together. It is not enough to find similar sounding steps piecemeal as is the case with the recitation of *London*. *London* does not teach or

suggest all of the steps of Claim 53. Therefore, the Applicant asserts that the rejection of Claim 53 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reasons.

Claim 54 is dependent from Claim 53 and contains all of the limitations of Claim 53. Claim 54 adds the step of generating an incentive for a distributed device of Claim 53 when the distributed device completes a workload. *London* generates a payment based on a processing metric (before the workload is processed). The seller is to be paid an agreed price (e.g., per Java operation) before a workload is processed. See *London*, page 12. *London* does not teach or suggest the limitation of Claim 54. Therefore, the Applicant asserts that the rejection of Claim 54 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reason as Claim 53.

Claim 55 is dependent from Claim 53 and contains all of the limitations of Claim 53. Claim 55 adds the step of generating an incentive value for a distributed device of Claim 53 in response to the workload capability factor generated for the distributed device. Claim 53 recites the steps to configure a distributed processing system according to the present invention. In one of the steps of Claim 53, a workload capability factor is generated for each distributed device of Claim 53. Claim 55 adds the step wherein an incentive value is generated when the workload capability factor is generated. *London* does not teach or suggest the limitation of Claim 55. Therefore, the Applicant asserts that the rejection of Claim 55 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reason as Claim 53.

Claim 56 is dependent from Claim 53 and contains all of the limitations of Claim 53. Claim 56 adds the limitation that the workload capability factor of Claim 53 is generated in response to a performance in completing a benchmark workload. Claim 53 recites the steps to configure a distributed processing system according to the present invention. In one of the steps of Claim 53, a workload capability factor is

generated for each distributed device of Claim 53. The Applicant has shown that *London* does not teach or suggest all the steps of Claim 53. Therefore, *London* does not teach or suggest the invention of Claim 56. The Applicant, therefore, asserts that the rejection of Claim 56 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reason as Claim 53.

Claim 57 is dependent from Claim 56 and contains all of the limitations of Claims 53 and 56. Claim 57 adds the limitation that the server system schedules and allocates workloads to the selected distributed devices based upon the workload capability factor generated in response to the performance in completing the benchmark workload. The Applicant has shown that *London* does not teach or suggest all the invention of Claim 53. Therefore, *London* does not teach or suggest the invention of Claim 56. The Applicant, therefore, asserts that the rejection of Claim 56 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reasons as Claims 53 and 56.

Claim 58 is dependent from Claim 53 and contains all of the limitations of Claim 53. Claim 58 adds the limitation that the workload capability factor of Claim 53 is generated in response to a workload completed by one of the selected distributed devices for the configured distributed parallel processing system. Claim 53 recites the steps to configure a distributed processing system according to the present invention. In one of the steps of Claim 53, a workload capability factor is generated for each distributed device of Claim 53. The Applicant has shown that *London* does not teach or suggest all the steps of Claim 53. Therefore, *London* does not teach or suggest the invention of Claim 58. The Applicant, therefore, asserts that the rejection of Claim 58 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reason as Claim 53.

Claim 59 is dependent from Claim 53 and contains all of the limitations of Claim 53. Claim 59 adds the limitation that the workload capability factor of Claim 53 is utilized to determine an entry value to a sweepstakes. Claim 53 recites the steps

to configure a distributed processing system according to the present invention. In one of the steps of Claim 53, a workload capability factor is generated for each distributed device of Claim 53. The Applicant has shown that *London* does not teach or suggest all the steps of Claim 53. Therefore, *London* does not teach or suggest the invention of Claim 59. The Applicant, therefore, asserts that the rejection of Claim 59 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reason as Claim 53.

Claim 60 is dependent from Claim 59 and contains all of the limitations of Claim 59. Claim 60 adds the limitation that the sweepstakes entry value increases for an increased workload capability factor of the selected distributed device. Claim 53 recites the steps to configure a distributed processing system according to the present invention. In one of the steps of Claim 53, a workload capability factor is generated for each distributed device of Claim 53. The Applicant has shown that *London* does not teach or suggest all the steps of Claim 53 with the limitation of Claim 59. Therefore, *London* does not teach or suggest the invention of Claim 60. The Applicant, therefore, asserts that the rejection of Claim 60 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reason as Claim 53 and 59.

Claim 61 is dependent from Claim 53 and contains all of the limitations of Claim 53. Claim 61 adds the step of transferring a software agent from the server system to the selected distributed devices, wherein the software agent manages a workload performed by the selected distributed devices. Claim 53 recites the steps to configure a distributed processing system according to the present invention. In one of the steps, selected distributed devices accept an incentive to participate in the distributed processing system. The Applicant has shown that *London* does not teach or suggest all the steps of Claim 53. Therefore, *London* does not teach or suggest the invention of Claim 61. The Applicant, therefore, asserts that the rejection of Claim 61 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reason as Claim 53.

Claim 62 is dependent from Claim 61 and contains all of the limitations of Claim 61. Claim 62 adds the limitation that the software agent further provides information to a user about an increase in an incentive value offered for an increase in the workload capability factor of the selected distributed device. Claim 53 recites the steps to configure a distributed processing system according to the present invention. In one of the steps, selected distributed devices accept an incentive to participate in the distributed processing system. The Applicant has shown that *London* does not teach or suggest all the steps of Claim 53. Therefore, *London* does not teach or suggest the invention of Claim 62. The Applicant, therefore, asserts that the rejection of Claim 62 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reasons as Claim 53 and Claim 61.

The Applicant would like to remind the Examiner that the M.P.E.P. § 707.07(e) states that "an omnibus rejection of the claim on the references and for the reasons of record is stereotyped and usually not informative and should therefore be avoided." The Applicant asserts that the Examiner has failed to specifically point out where in *London* each and every element of Claim 63 is found. Rather, the Examiner has cited the entirety of *London*, pages 8-14 to reject Claims 1-28 and then has said that Claim 63 is rejected for the same reasons as Claims 1-28.

Claim 63 is an independent claim directed to a distributed parallel processing system. The distributed processing system comprises several elements in a particular relationship. A server system coupled to a network configured to connect to distributed devices; selected distributed devices of the distributed devices coupled through the network, wherein the selected distributed devices are enabled by the server system to perform workloads for the distributed parallel processing system; capability storage coupled to the server system for storing workload capability factors quantifying a workload processing capability for each of the selected of the distributed devices; and incentive storage coupled to the server system for storing incentive values to be offered to the selected distributed devices as compensation for participating in performing workloads for the distributed parallel processing system,



wherein the server system manages the selected distributed devices participation in the distributed parallel processing system utilizing the workload capability factors.

While a distributed processing system may be configured in many different ways, Claim 63 recites a particular distributed processing system. In *London*, sellers visit a web-page and by loading an applet "enter a market place" where they may sell their computer time. Sellers that enter a market place are thus loosely a part of a distributed processing system. These sellers were not enabled by a server system to process workloads for the market; rather, they barter with buyers according to some protocol to sell their computer time. These sellers are distributed devices that become part of the distributed processing system (market) simply by downloading an applet.

*London* does not discuss the capabilities of the distributed devices nor does *London* disclose capability storage for storing capability factors for the distributed devices. *London* does not discuss or disclose acquiring any information about the distributed devices (sellers). While *London* does disclose "estimating" the number of Java operations necessary to process a computelet by running a piggybacked benchmark, *London* states that this process is imprecise and has an associated overhead. See *London*, page 12. The distributed processing system of Claim 63 stores the capability factors for selected distributed devices and uses the server system users these capability factors to manage the participation of the distributed devices in the distributed processing system. The Applicant asserts that the invention of Claim 63 is very different from what is disclosed in *London*.

Additionally, the distributed processing system of Claim 63 has incentive storage coupled to the server system for storing incentive values that are offered to the selected distributed devices as compensation for participating in performing workloads for the distributed parallel processing system. *London* discloses a distributed processing system where compensation is for completing a workload and not for participating in performing workloads. In Claim 63, a distributing processing system is formed wherein the server system manages the operation of the distributing

processing system using the workload capability factors. In *London*, there is not cohesiveness in the distributed processing system, it is what happens when buyers and sellers barter for computer time. There is no server system that "manages" the distributed processing system; rather, the "market" on facilitates trades between buyers and sellers. The Applicant respectfully asserts that elements of the present invention and the disclosure of *London* are similar, the distributed processing system that results from the invention of Claim 63 is very different from the distributed processing system represented by the "market" of *London*. Therefore, the Applicant respectfully asserts that the rejection of Claim 63 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reasons as Claim 1.

Claim 64 is dependent from Claim 63 and contains all the limitations of Claim 63. Claim 64 adds the limitation that the incentives stored in the incentive storage coupled to the server system and offered to the selected distributed devices as compensation for participating in performing workloads for the distributed parallel processing system are determined in response to a completed workload. The Applicant has shown that *London* does not provide an incentive for participating in performing workloads for the distributed parallel processing system, *London* provides compensation for the computer time used to complete a workload. *London* does not disclose that a seller (distributed device) enters a market (distributed processing system) simply by downloading an applet. Once a seller has entered a market, he barter with buyers for computer time he has to sell. He does not complete a workload and then receive an incentive to participate in the market (process workloads for a distributed processing system). The Applicant asserts that the invention of Claim 64 is not disclosed by *London*. Therefore, the Applicant asserts that the rejection of Claim 64 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reasons as Claim 63.

Claim 65 is dependent from Claim 63 and contains all the limitations of Claim 63. Claim 65 adds the limitation that the incentives stored in the incentive storage

coupled to the server system and offered to the selected distributed devices as compensation for participating in performing workloads for the distributed parallel processing system are determined in response to a workload capability generated for a selected distributed processing system. The Applicant has shown that *London* does not provide an incentive for participating in performing workloads for the distributed parallel processing system, *London* provides compensation for the computer time used to complete a workload. *London* does not disclose that a seller (distributed device) enters a market (distributed processing system) simply by downloading an applet. Once a seller has entered a market, he barterers with buyers for computer time he has to sell. He does not complete a workload and then receive an incentive to participate in the market (process workloads for a distributed processing system). The Applicant asserts that the invention of Claim 65 is not disclosed by *London*. Therefore, the Applicant asserts that the rejection of Claim 65 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reasons as Claim 63.

Claim 66 is dependent from Claim 63 and contains all the limitations of Claim 63. Claim 65 adds the limitation wherein the workload capability factor is generated in response to a performance in completing a benchmark workload. The Applicant has shown that *London* does not disclose workload capability factors. *London* provides compensation for the computer time used to complete a workload. *London* does not disclose that a seller (distributed device) enters a market (distributed processing system) simply by downloading an applet. Once a seller has entered a market, he barterers with buyers for computer time he has to sell. He does not complete a benchmark workload that is used to determine a workload capability factor. The Applicant asserts that the invention of Claim 66 is not disclosed by *London*. Therefore, the Applicant asserts that the rejection of Claim 66 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reasons as Claim 63.

Claim 67 is dependent from Claim 66 and has all the limitations of Claim 66. Claim 67 adds the limitation that the server system schedules and allocates workloads to the selected distributed devices based upon the specific workload capability factor of Claim 67 which is generated in response to the performance in completing the benchmark workload. In Claim 67, a distributing processing system is formed wherein the server system manages the operation of the distributing processing system using the workload capability factors. In *London*, there is not cohesiveness in the distributed processing system, it is what happens when buyers and sellers barter for computer time. There is no server system that "manages" the distributed processing system, rather the "market" on facilitates trades between buyers and sellers. The Applicant respectfully asserts that elements of the present invention and the disclosure of *London* are similar, the distributed processing system that results from the invention of Claim 67 is very different from the distributed processing system represented by the "market" of *London*. Therefore, the Applicant respectfully asserts that the rejection of Claim 67 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reasons as Claim 66.

Claim 68 is dependent from Claim 63 and contains all the limitations of Claim 63. Claim 68 adds the limitation wherein the workload capability factor is generated in response to a workload completed by one of the selected distributed devices for the configured distributed parallel processing system. The Applicant has shown that *London* does not disclose workload capability factors. *London* provides compensation for the computer time used to complete a workload. *London* does not disclose that a seller (distributed device) enters a market (distributed processing system) simply by downloading an applet. Once a seller has entered a market, he barter with buyers for computer time he has to sell. A workload capability factor is not determined in response to completing a workload. The Applicant asserts that the invention of Claim 68 is not disclosed by *London*. Therefore, the Applicant asserts that the rejection of Claim 68 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reasons as Claim 63.

Claim 69 is dependent from Claim 63 and contains all the limitations of Claim 63. Claim 69 adds the limitation that the workload capability factor is utilized to determine an entry value to a sweepstakes. The Applicant has shown that *London* does not disclose workload capability factors. *London* provides compensation for the computer time used to complete a workload. *London* does not disclose that a seller (distributed device) enters a market (distributed processing system) simply by downloading an applet. Once a seller has entered a market, he barter with buyers for computer time he has to sell. *London* does not utilize workload capability factors of the distributed devices to determine an entry to a sweepstakes. The Applicant asserts that the invention of Claim 69 is not disclosed by *London*. Therefore, the Applicant asserts that the rejection of Claim 69 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reasons as Claim 63.

Amended Claim 70 is dependent from Claim 69 and contains all the limitations of Claim 69. Claim 70 adds the sweepstakes entry value increases for an increased workload capability factor of the selected distributed device. The Applicant has shown that *London* does not disclose workload capability factors. *London* provides compensation for the computer time used to complete a workload. *London* does not disclose that a seller (distributed device) enters a market (distributed processing system) simply by downloading an applet. Once a seller has entered a market, he barter with buyers for computer time he has to sell. *London* does not utilize workload capability factors of the distributed devices to determine an entry to a sweepstakes; therefore, *London* cannot increase the sweepstakes entry value as recited in Claim 70. The Applicant asserts that the invention of Claim 70 is not disclosed by *London*. Therefore, the Applicant asserts that the rejection of Claim 70 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reasons as Claim 69.

Claim 71 is dependent for Claim 63 and has all the limitations of Claim 63. Claim 71 adds the limitation that the distributed processing system of Claim 63 includes a software agent transferred from the server system to selected distributed

devices, wherein the software agent manages a workload performed by the selected distributed devices. *London* does disclose that the applet downloaded by the seller initiates a connection to the market, receives a computelet (workload), processes the computelet and returns a result. However, the Applicant has shown that the distributed processing system of *London* is not the distributed system of Claim 63, and thus the distributed processing system of Claim 63 including the software agent of Claim 71 is not disclosed by *London*. Therefore, the Applicant asserts that the rejection of Claim 71 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reasons as Claim 63.

Claim 72 is dependent from Claim 71 and has all the limitations of Claim 71. Claim 72 adds the limitation that the software agent further provides information to a user about an increase in an incentive value offered for an increase in the workload capability factor of the selected distributed device. The Applicant has shown that *London* does not disclose the incentives or capability factors of Claim 7; and therefore, *London* does not disclose a software agent that provides information to a user concerning these incentives and capability factors. The Applicant asserts that *London* does not disclose the invention of Claim 72. Therefore, the Applicant asserts that the rejection of Claim 72 under 35 U.S.C. §102(e) as being disclosed by *London* is traversed for the above reason and for the same reasons as Claim 71.

II. CONCLUSION

Claims 1-52 have been canceled without prejudice or disclaimer.

The rejections of Claims 53-72 under 35 U.S.C. § 102(e) as being disclosed by *London* are traversed.

The Applicants, therefore, respectfully assert that Claims 53-73 are now in condition for allowance and request an early allowance of these claims.

Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining problems.

Respectfully submitted,

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